

Internal Revenue Service

Department of the Treasury

District
Director

[REDACTED]

Date: APR 15 1998

Employer ID Number:

Person to Contact:

Telephone Number:

Refer Reply To:

[REDACTED]

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(4) of the Internal Revenue Code.

The information submitted discloses that you were incorporated on [REDACTED] under the Not For Profit Articles of Incorporation of the State of [REDACTED]. Your purpose, as stated in your Articles of Incorporation, is a "billing service for care providers for handicapped people."

Your organization's primary function is to provide a medical billing service for providers of care for physically or mentally handicapped individuals. [REDACTED] will make the appropriate deductions from the care providers wages for federal and state taxes, social security and medicaid, keep records, pay wages to care providers, make payments of taxes to appropriate agencies and complete W-2 forms. You are currently providing these services through your bookkeeper, [REDACTED], President and Secretary of the organization. According to your letter of [REDACTED], the bookkeeper is paid [REDACTED]% of the Social and Rehabilitation Services funding. [REDACTED], Vice-President and Treasurer of the organization, is the only care provider receiving these services at present.

This activity currently comprises about [REDACTED]% of the organization time. You state the other [REDACTED]% is devoted to searching for care providers and matching them to the handicapped clients needs. The creators of your organization, [REDACTED], are care providers for their handicapped child under the [REDACTED] organization and are being paid by [REDACTED]. You were incorporated in [REDACTED], and to date the officer of the organization is the only care provider receiving this service.

[REDACTED], the only officers of the organization, hold [REDACTED] shares of stock in the organization. Although the stock does not pay dividends, each share has a \$[REDACTED] par value.

Section 501(c)(4) of the Internal Revenue Code grants exemption to:

- (A) Civic leagues or organization not organized for profit but operated exclusively for the promotion of social welfare, or local association of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality and the net

earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(B) Subparagraph (A) shall not apply to an entity unless no part of the net earning of such entity inures to the benefit of any private shareholder or individual.

The Income Tax Regulations Section 1.501(c)(4)-1(a) state that a civic league or organization described in Section 501(c)(4) may be exempt if:

- (i) It is not organized or operated for profit; and
- (ii) It is operated exclusively for the promotion of social welfare.

The regulations further describe social welfare activities as promoting in some way the common good and the general welfare of the people of the community. An organization coming within the purview of this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A "social welfare" organization will qualify for exemption as a charitable organization if it falls within the definition of "charitable" set forth in paragraph (d)(2) of Section 1.501(c)(3)-1.

Revenue Ruling 70-535, 1970-2 C.B. 117 states that a nonprofit organization formed to provide managerial, developmental, and consultative services for low and moderate income housing projects for a fee was held not exempt as a social welfare organization. The organization's primary activity is carrying on a business by managing low and moderate income housing projects in a manner similar to organization operated for profit. The fact that the services are performed for tax exempt corporations does not change the business nature of the activity.

Revenue Ruling 62-167, 1962-2 C.B. 142 states that a nonprofit organization formed for the purpose of providing television reception for the community as a whole is entitled to exemption under section 501(c)(4) of the Code. This Ruling is distinguished from Revenue Ruling 54-394, 1954-2 C.B. 131, which stated that an organization formed for the purpose of furnishing television antenna service to its members is not exempt. Such an organization is operating for the benefit of the members.

You are not operating for a public interest. Like the organization in Revenue Ruling 70-545, your primary activity is the provision of a business service. As that Ruling stated, the fact that the services are provided for the handicapped does not change this. You provide your services to persons who sign up and agree to pay you, like the organization in Revenue Ruling 62-167, which does not qualify for exemption as a social welfare organization. You do not provide the service at no charge for anyone needing it, like the organization in Revenue Ruling 54-394 which serves the general public.

In addition, Code section 501(c)(4)(B) requires that no part of the earnings of the organization inures to any private shareholder or individual. You serve the private interests of your creators and owners; your only service is to the officer of the organization. You have been incorporated since [REDACTED], and your only client is the officer of the organization. Contrary to the requirements of the Code and Regulations, you are not operated exclusively for the promotion of social welfare. You are conducting a business service and the service is primarily for the benefit of the officers of the organization.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(4) of the Code. You are required to file Federal Income Tax returns on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[Redacted Signature]

District Director

Enclosures:
Publication 892
Form 6018